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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA  
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10 WENDY RIVERA,

11 Plaintiff,

12 v.

13 ROBERT GATES, et al.,

14 Defendants.  
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Case No. C09-5355 RJB

ORDER ON FEDERAL  
DEFENDANTS' MOTION  
FOR ORDER  
COMPELLING  
DISCOVERY

17 This matter comes before the court on the defendant's Motion for Order Compelling Discovery  
18 (Dkt. 18). The court has considered the relevant pleadings and the file herein.

19 PROCEDURAL AND FACTUAL BACKGROUND

20 On June 15, 2009, the plaintiff Wendy Rivera filed a complaint (Dkt. 1). The only remaining  
21 claims in this case are claims for violations of Title VII of the Civil Rights Act of 1964 against defendant  
22 Pete Geren in his official capacity as the Secretary of the Army. *See* Dkt. 12.

23 On October 14, 2009, the defendant served the plaintiff with his first set of interrogatories and  
24 requests for production of documents. Dkt. 19; Dkt. 19-2. The defendant contends that the plaintiff has  
25 not answered the discovery requests, and that counsel for the defendant has conferred with counsel for the  
26 plaintiff on several occasions but to no avail. Dkt. 19. The defendant now moves to compel the plaintiff  
27 to fully respond to the defendant's first set of interrogatories and requests for production of documents.  
28 Dkt. 18. The plaintiff's response to the motion should have been filed by January 25, 2010, (*see* CR

1 7(d)(3)), but the plaintiff has not responded.

## 2 STANDARD

3 Litigants may obtain discovery regarding any matter, not privileged, that is relevant to the claim or  
4 defense of any party. Fed.R.Civ.P. 26(b)(1). Relevant information for purposes of discovery is  
5 information “reasonably calculated to lead to the discovery of admissible evidence.” *Survivor Media,*  
6 *Inc. V. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005). District courts have broad discretion in  
7 determining relevancy for discovery purposes. *Id.* (citing *Hallet v. Morgan*, 296 F.3d 732, 751 (9th Cir.  
8 2002)).

9 If a requested disclosure is not made, the requesting party may move for an order compelling such  
10 disclosure. Fed.R.Civ.P. 37(a)(1). The party who resists discovery has the burden to show that discovery  
11 should not be allowed, and has the burden of clarifying, explaining, and supporting objections. *Cable &*  
12 *Computer Tech., Inc. V. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997). The Federal  
13 Rules strongly encourage parties to resolve discovery disputes privately and discourage them from  
14 seeking needless court intervention. To this end, before a party may bring a motion for an order  
15 compelling discovery, that party must in good faith confer or attempt to confer in an effort to obtain  
16 discovery without court action. Fed.R.Civ.P. 37(a)(1). Such good faith effort to confer “requires a face-  
17 to-face meeting or a telephone conference.” CR 37(a)(1)(A). If the court finds that the counsel for any  
18 party, or a party proceeding pro se, willfully refuses to confer, fails to confer in good faith, or fails to  
19 respond on a timely basis to a request to confer, the court may sanction the party. *Id.* Further, a party’s  
20 failure to file papers in opposition to a motion to compel discovery may be considered by the court as an  
21 admission that the motion has merit. CR 7(b)(2).

## 22 DISCUSSION

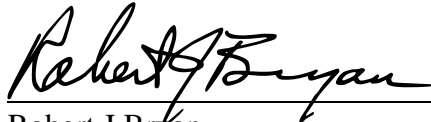
23 Pursuant to CR 7(b)(2), the plaintiff’s failure to respond to the defendant’s Motion For Order  
24 Compelling Discovery (Dkt. 18) should be considered an admission that the motion has merit.  
25 Accordingly, the defendant’s motion should be granted and the plaintiff should fully respond to the  
26 defendant’s first set of interrogatories and requests for production of documents.

27 Therefore, it is hereby **ORDERED** that the defendant’s Motion For Order Compelling Discovery  
28 (Dkt. 18) is **GRANTED**. Plaintiff shall provide responses to the defendant’s first set of interrogatories

1 and requests for production of documents forthwith and no later than February 15, 2010.

2 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
3 party appearing *pro se* at said party's last known address.

4 DATED this 8th day of February, 2010.

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8 Robert J Bryan  
9 United States District Judge  
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